

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et*  
*al.*,

Debtors.<sup>1</sup>

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**INFORMATIVE MOTION OF THE FINANCIAL OVERSIGHT AND MANAGEMENT  
BOARD FOR PUERTO RICO REGARDING THE SELECTION OF  
ALTERNATIVE DISPUTE RESOLUTION SERVICE PROVIDERS**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the representative of the Commonwealth of Puerto Rico (the “Commonwealth”), the Puerto Rico Highways and Transportation Authority (“HTA”), the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), the Puerto Rico Electric Power

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (“Commonwealth”) (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Authority (“PREPA”), and the Puerto Rico Public Buildings Authority (“PBA,” and together with the Commonwealth, HTA, ERS, and PREPA, the “Debtors”) pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act*,<sup>2</sup> respectfully submits this informative motion (the “Informative Motion”) in compliance with the *Order (A) Authorizing Alternative Dispute Resolution Procedures, (B) Approving Additional Forms Of Notice, And (C) Granting Related Relief* (the “ADR Order”) [ECF No. 12576]. In support of this Informative Motion, the Commonwealth respectfully states as follows:

1. On April 1, 2020, this Court entered the ADR Order, which authorized the Debtors to resolve claims through the ADR Procedures,<sup>3</sup> a copy of which is attached as Exhibit 1 to the ADR Order [ECF No. 12576-1]. As the Court is aware, the ADR Procedures are intended to streamline the reconciliation of general unsecured claims through the use of certain alternative dispute reconciliation mechanisms, including an Offer-Exchange, an Evaluative Mediation, and Binding Arbitration, if the parties so consent.

2. Paragraph 5(c) of the ADR Procedures authorizes the Debtors to solicit proposals from one or more arbitration service providers. In the months following the approval of the ADR Procedures, the Debtors entered discussions with and solicited proposals from multiple arbitration service providers. After reviewing the information solicited, the Debtors narrowed the pool of potential providers to two well-regarded arbitration groups: JAMS and the American Arbitration Association (“AAA”). The Debtors then consulted with the UCC’s advisors regarding the

<sup>2</sup> PROMESA is codified at 48 U.S.C. §§ 2101–2241.

<sup>3</sup> Capitalized terms used but not defined herein shall have the meanings set forth in the ADR Order.

proposals received from JAMS and AAA. The final proposals reflect certain clarifications and revisions requested by the UCC.

3. In light of the potential size of the program, the Debtors have decided to select both JAMS and AAA (together, the “Selected Providers”). The proposals submitted by JAMS and AAA are attached hereto as **Exhibits A and B, respectively**. The Selected Providers were chosen for several reasons, including the qualifications of their arbitrators, their ability to provide arbitrators with Spanish-language skills, their ability to service the volume of claims that may require arbitration, and their competitive fee structures. In addition, AAA was chosen for its ability to provide arbitrators who reside in Puerto Rico.

4. When determining whether to consent to Binding Arbitration, Designated Claimants will be permitted to select one of the two Selected Providers. The Debtors will provide the Designated Claimants with the fee structures proposed by JAMS and AAA, as well as general information regarding the arbitrators available through each of the Selected Providers, and, on the materials to be returned to the Debtors, Designated Claimants will notate which of the Selected Providers they prefer.

5. Pursuant to paragraph 5(c) of the ADR Procedures, any party in interest who objects to the independence or qualifications of the Selected Providers must file a written notice of such objection within fourteen (14) days of the filing of this Informative Motion.

**WHEREFORE** the Debtors respectfully request the Court take notice of the foregoing.

Dated: August 27, 2020  
San Juan, Puerto Rico

Respectfully submitted,

/s/ Brian S. Rosen

Martin J. Bienenstock (*pro hac vice*)  
Brian S. Rosen (*pro hac vice*)  
Paul V. Possinger (*pro hac vice*)  
Ehud Barak (*pro hac vice*)  
**PROSKAUER ROSE LLP**  
Eleven Times Square  
New York, NY 10036  
Tel: (212) 969-3000  
Fax: (212) 969-2900  
Email: [mbienenstock@proskauer.com](mailto:mbienenstock@proskauer.com)  
brosen@proskauer.com  
ppossinger@proskauer.com  
ebarak@proskauer.com

-and-

/s/ Hermann D. Bauer  
Hermann D. Bauer  
USDC No. 215205  
**O'NEILL & BORGES LLC**  
250 Muñoz Rivera Ave., Suite 800  
San Juan, PR 00918-1813  
Tel: (787) 764-8181  
Fax: (787) 753-8944

*Attorneys for the Financial Oversight and  
Management Board for Puerto Rico as  
Representative of the Debtors*